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Self government in Louisiana

Speech of

Hon. J. R. West.

1875.

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SELF-GOVERNMENT IN LOUISIANA.

SPEECH

OF

HON. J. R. WEST,

OF LOUISIANA,

IN THE

UNITED STATES SENATE,

FEBRUARY 1, 1875.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1875.

SPEECH

OF

HON. J. R. WEST.

The Senate having under consideration the resolution submitted by Mr. SCHURZ on the 8th of January, directing the Committee on the Judiciary to inquire what legislation is necessary to secure to the people of the State of Louisiana their rights of self-government under the Constitution—

Mr. WEST said:

Mr. PRESIDENT: Having already had one, though a brief, opportunity of addressing the Senate on the pending question, on which occasion I pointed out how the laws and the constitution of Louisiana had been violated in the pretended organization made under Mr. Wiltz on the 4th of last month, I feel some hesitation in again claiming the attention of the Senate, and must plead as an apology for so doing that I consider there are yet some features in the case that have not been examined and which it will be well to scrutinize. The views that I shall express to-day will therefore have at least the merit of novelty, and though I shall not be able altogether to avoid traveling in some of the sufficiently well-trodden paths of others who have preceded me, yet I can promise not to weary those who will honor me with their attention, unnecessarily to the positions that I shall assume.

I propose to show from some of the pages of the recent but apparently forgotten history of Louisiana, that had it been designed by the United States authorities to overthrow constitutional government in that State and to establish military despotism in its place, there have been other and earlier opportunities of doing so. After I have spread that page before you I shall proceed to an examination of a report of a recent superficial inquiry into the affairs of Louisiana, and shall endeavor to show that a document which is freely quoted by our opponents in this Chamber as completely confounding the views of republicans here, and as convincingly unanswerable, is simply a copy of a democratic White League brief that deals with propositions at variance with its own facts and presents conclusions without evidence to sustain them.

Mr. President, it is an axiom that "history repeats itself." Events that are transpiring in Louisiana to-day, and that have transpired in the past month, are not a repetition of history, but rather a continuation of an unbroken chronicle of outrage and of wrong ever since that State was admitted to the Union under reconstruction. I would ask the Senate to go back with me to an incident that occurred prior to the Administration of the present Chief Executive, in which the military authority was interposed under somewhat similar circumstances to those of the recent action that has been so elaborately discussed here.

In 1868 one universal scene of violence, murder, and killing prevailed throughout that State to such an extent that the State authorities deemed themselves powerless to suppress those disorders, and the governor of the State appealed under the Constitution to the Federal Government for its interposition. I read from the testimony taken in the Louisiana contested cases in 1868, in which the governor of that State—a governor whose title has never been questioned, and who met no opposition to his authority in consequence of any illegality or insufficiency of title—that governor, I say, addressed to the military representative of the United States in New Orleans this request:

GENERAL: The evidence is conclusive that the civil authorities in the parishes of Orleans, Jefferson, and Saint Bernard are unable to preserve order and protect the lives and property of the people.

The act of Congress prohibiting the organization of militia in this State strips me of all power to sustain them in the discharge of their duties, and I am compelled to appeal to you to take charge of the peace of these parishes and use your forces to that end.

If you respond favorably to my request, I will at once order the sheriffs and police forces to report to you for orders.

Very respectfully, your obedient servant,

H. C. WARMOTH,
Governor of Louisiana.

The general commanding, concluding very properly that such an appeal should be made to the Chief Executive, transmitted that appeal to Washington, and was replied to as follows:

WAR DEPARTMENT,
Washington, October 26, 1868.

Brevet Major-General L. H. ROSSEAU,
Commanding Department of Louisiana, New Orleans:

Your dispatch of the 26th, forwarding a message from the governor of Louisiana, and asking instructions, has been received. You are authorized and expected to take such action as may be necessary to preserve the peace and good order, and to protect the lives and property of citizens.

J. M. SCHOFIELD,
Secretary of War.

General Rosseau, who was then in command, on the 28th day of October, 1868, issued this proclamation to the citizens of New Orleans:

HEADQUARTERS DEPARTMENT OF LOUISIANA,
(STATES OF LOUISIANA AND ARKANSAS,)
New Orleans, Louisiana, October 28, 1868.

To the people of New Orleans:

FELLOW-CITIZENS: I have received instructions from the authorities at Washington to take such action as may be necessary to preserve peace and good order, and to protect the lives and property of citizens.

* * * * * * *

So far the requisition upon the President of the United States and the action of those in authority under him was entirely legitimate. But the military commander saw proper to take certain action which is as completely a violation of the law in the case as we have had illustrated to us here in any action in the more recent case. It would seem that that military commander should have acted in co-operation with the State authorities; but he absolutely moved directly and without recognizing those authorities and reorganized the police board in the city of New Orleans, as the record shows. Here was a State then admitted to full recognition in the Federal Union, represented on this floor by two Senators and at the other end of the Capitol by its competent representation; and yet on the direction that the military authorities there should take such action as would preserve the peace, they to a certain extent superseded the government, and acted without its recognition and against its inclinations.

Now, sir, I shall recur to the charge made in the words of the Senator from Ohio, [Mr. THURMAN.] He said:

> The great theme which now engages the American Senate is that great question of constitutional law, whether constitutional government shall be preserved in this land or military despotism take its place.

The specification of that charge has been furnished us through the information that his resolution elicited, and that specification is that General De Trobriand, acting at the request of Governor Kellogg—a request made in obedience to an appeal of fifty-two members, a majority of the Legislature then in the process of assembling, and upon the judgment of that governor that he had exhausted all the State resources at his command to suppress a then formidable movement of domestic violence—prostrated the civil institutions of that State to Federal military power, and imperiled the liberties of forty millions of people. It is nowhere admitted—on the contrary, it is emphatically denied—that this action emanated from the President of the United States, or that he can in any degree be held responsible for it; and in support of that proposition I want to recur to another page of Louisiana history, showing what the President of the United States is inclined to do when he is compelled to act and when he has the proper information at his command.

I told the Senate that I should recur to some incidents of Louisiana history that had apparently escaped their recollection. Do they remember that just precisely three years preceding the events that have created so much excitement and which have been the subject of this discussion—precisely to a day three years before these events transpired we had another event somewhat analogous in character, and the action had was entirely different? On the 4th of January, 1875, General De Trobriand, at the request of a democratic (so called) speaker of the house, came to his relief. On the 4th of January, 1872, a conspiracy, entered into in the Legislature of Louisiana by a minority of democrats, temporarily overthrew that house, and when their plans were foiled they appealed to the military to abolish and annihilate that house. The Legislature of Louisiana was in session on the 4th day of January, 1872. A minority of the house, having certain projects and plans, took occasion to secure the temporary control of the house by the very questionable measure which I will now recite to the Senate. At twelve o'clock on the 4th day of January, 1872, the governor of the State, the lieutenant-governor, four members of the senate, and eighteen members of the house, all of them opponents of the speaker and his combination—

> Were arrested by United States deputy marshals on writs issued by United States Commissioner Woodley, who was till recently a clerk or deputy under Marshal Packard, on the false and frivolous charge that they were conspiring to resist the execution of the laws of the United States.
>
> While most of these members were absent at the custom-house, they were delayed by the commissioner, on the pretense that he had no blank bonds, and had sent for some. Having been detained for a considerable time, they were finally released, and returned to the State-house. When they returned they found that seven republicans had been unseated, and six democrats and custom-house republicans had been seated in their places, while one, the seat of Mr. Sauer, of Avoyelles, was left vacant. This was done with only fifty-one members present, including the speaker.

The clerk of the house in this same document testifies:

> On each question the same number of votes were cast, and there were during the transaction of all this business only fifty members present besides the speaker.
>
> According to the constitution and practice of the house, fifty-two members were necessary for a quorum, there being one hundred and two actual members of the house of representatives.

You will see that on this earlier occasion a minority proceeded without authority of law to disorganize a Legislature of Louisiana. That movement was counteracted by the governor of the State issuing a proclamation that same afternoon reconvening the Legislature, getting a full quorum, expunging what had been done during the day, and unseating the members who had been guilty of this violation of the laws and the constitution. Then ensued a scene of confusion, complication, and disorder that put to the extreme test the powers of the executive of that State to maintain his position.

On the 5th of January, the following day, the governor of Louisiana telegraphed to me here in these words:

> The condition of affairs is that of insurrection, and I want President Grant to instruct General Emory to use his whole force to assist me in suppressing it, and to answer me whether he will do so—either yes or no.

I did not regard that application as made in accordance with the Constitution, and I replied to the governor as follows:

> Dispatch for President received this morning and forwarded. It occurs to me that you assume a false position in asking United States troops to suppress any insurrectionary or riotous movement until you have exhausted the power of the State; meanwhile the Federal troops should not molest you.

As I remember, no effectual applications were subsequently made by the governor of that State for any such military interference. But I will proceed and show who did make applications of that character, and how inconsistent those applications are with the position that the same gentlemen occupy at the present time. The democracy of the State, speaking through its authorized body, the executive political committee of the State, the democratic members of the bar of Louisiana, the democratic press, the democratic mass-meetings, the democratic judges upon the bench, besought the President to use the military power of the United States to disperse that Legislature. Judges T. Wharton Collins, of the seventh district court, William H. Cooley, of the sixth district court, and the judges of the second and fourth district courts appealed to the President of the United States to declare martial law and disperse that assemblage. The collector of the port of New Orleans, the relative and personal friend of the President, made a like appeal; the United States marshal made a similar appeal; the editor of the New Orleans Bee, the leading democratic organ, the expelled members of the Legislature, made a like appeal; the mayor of the city appealed. I repeat, the executive committee of the State central committee of the democratic party asked for the intervention of Federal troops to abolish and disperse a Legislature the legality of which there was no question about. The leading democratic paper in an article asked for martial law. The members of the bar of the city of New Orleans asked for martial law; the citizens in mass-meeting assembled, and Louis A. Wiltz as one of them, your outraged and violated speaker who now complains of the interposition of the Army of the United States, asked the President to interpose and expel members from the Legislature.

Let us contrast the difference between that occasion and this, both with respect to what I have stated and with respect to the information that was in the hands of the President, and the solicitation to which he was subjected. His political friends—the governor of the State, the judges on the bench, the democratic State central committee, the democrats generally in mass-meeting assembled—appealed for the interposition of military authority. And what was the answer of the President of the United States? Because thoroughly informed (which he was not, nor were any pains taken to inform him of the recent action) of this situation, not yielding to the solicitation of

either his political friends or his political adversaries, with telegrams incessantly pouring upon him to the number of fourteen, he makes but one answer, and the record of it should not be forgotten—

Troops cannot be used except under provisions of law

That was the answer of the President of the United States when he was asked to interfere, and he is in no way responsible that his subordinates have on a different occasion taken a different view of their duty. He knew what the circumstances were; that community laid them completely and clearly before him. He could not reconcile it to his sense of constitutional duty to interpose in the organization of a Legislature. Not only was that his view at that time, but there is abundant evidence in the message he has sent to us, and there is also corroborating evidence in the manner in which the officers on duty there construed his dispatches and their instructions, to show that the military interposed with extreme reluctance and only for the ultimate preservation of peace and good order. The President say in his message:

I did not know that any such thing was anticipated, and no orders nor suggestions were ever given to any military officer in that State upon that subject prior to the occurrence.

* * * * * * *

I have no desire to have United States troops interfere in the domestic concerns of Louisiana or any other State.

On the 9th of December last Governor Kellogg telegraphed to me his apprehensions that the White League intended to make another attack upon the State-house, to which on the same day I made the following answer, since which no communication has been sent to him:

"Your dispatch of this date just received. It is exceedingly unpalatable to use troops in anticipation of danger. Let the State authorities be right, and then proceed with their duties without apprehension of danger. If they are then molested, the question will be determined whether the United States is able to maintain law and order within its limits or not."

I have deplored the necessity which seemed to make it my duty under the Constitution and laws to direct such interference. I have always refused, except where it seemed to be my imperative duty, to act in such a manner under the Constitution and laws of the United States.

Now, if there is one officer more than another in Louisiana who is peculiarly obnoxious to our friends on the other side of this Chamber it is Major Lewis Merrill, the officer that a Senator here a few days ago without any warrant asserted was under arrest on the charge of arresting and handcuffing civilians. I protested against that charge at that time, because, although I could not refute it, I did not believe it was true; and the Senator did not have the information, but he asserted most positively that Major Merrill was under arrest. I desire to call the attention of the Senate to the disposition of that man, or rather to his conception of what his military duties are, and I will read briefly from his report:

The general purpose of having the troops stationed here, I take it, I correctly understand in believing it to be to maintain, first, as far as possible, by moral influence, and in the last extremity, if needful, by physical force, the supremacy of the civil law. I further suppose myself right in assuming that every officer charged with any duty in this disturbed country should carefully and steadily keep in view the fact that every power of moral suasion, and every influence toward a peaceful settlement of the disturbances, should be exhausted before he would be justified in even a show of physical force; that it is his duty, first and last, to make conspicuous the fact that the military are here only to sustain the law and to assist the proper officers in enforcing it; that the community is not in a state of war; and that in all respects the usual functions of the civil law are to be appealed to for protection before any rightful use of the military can be made.

As an earnest of that officer's disposition to in no case interpose the military arm of the Government in conflict with the civil authority, even when that civil authority was exerted against one of

the members of his own force, one of the members who was active in his efforts to suppress violence, I will read from some of the telegrams which passed between Major Merrill and some of his subordinates. One of Major Merrill's officers was arrested by a process from one of the State courts. An attorney at law practicing in that court was employed to defend him. There were some preliminary examinations, and presently the question got into the hands of the grand jury. The attorney who was defending the officer telegraphed to Major Merrill, intimating that pending the issuance of the warrant under such an indictment the officer might make his escape. That same idea seems to have been suggested to the other military officers who were there in the immediate presence and neighborhood of that court, and they also intimated to their commander, then at Shreveport, that evasion of that writ might be had by flight or by force. Major Merrill replied:

Let the warrant be served and obeyed.

And in reporting to his more immediate commander at New Orleans, he said:

That grand jury have found indictment against Hodgson, and warrant will be served to-morrow morning. Have ordered positively that there shall be no evasion or interference with legal proceedings; that warrant must be answered quietly "without any evasion whatever."

Mr. President, after the instances we have had recounted to us in this Chamber of the safety and security with which this Government has tided along until now near the completion of a century, over the varied encroachments, if I may so express it, of the military upon the civil power; after the episode of Jackson in 1815, the arrest of a member of the Legislature, and the ignoring of a writ of *habeas corpus:* after the dispersion of the Kansas Legislature in 1856 by Federal authority; after the capture of the Maryland Legislature in 1861; after the assumption in 1868 of military control of a State in full fraternity in this Union; after the appeal by the democratic party and the democratic masses of Louisiana for Federal interposition and for the dispersion of a legal Legislature of that State in 1872, are we to be told that the pillars of constitutional liberty should tremble because under the orders of a governor of a State the military interposed and ejected from the Legislature some men that had no particle of title to be there? It is a mere sham pretension that such danger should be apprehended.

After five years of war, when the troops laid down their arms, this "imperious and ambitious" Cæsar disbanded all his great hosts after having with a generosity that commanded the admiration of the world paroled the hostile forces; and adjuring them to the arts of peace bade them return to their homes and gave them assurance that they should not be molested. I should like to have read the terms of surrender just certified to me by the War Department, as between General Lee and General Grant.

The Chief Clerk read as follows:

APPOMATTOX COURT-HOUSE, VIRGINIA,
April 9, 1865.

GENERAL: In accordance with the substance of my letter to you of the 8th instant, I propose to receive the surrender of the army of Northern Virginia on the following terms, to wit: Rolls of all the officers and men to be made in duplicate, one copy to be given to an officer to be designated by me, the other to be retained by such officer or officers as you may designate. The officers to give their individual paroles not to take up arms against the Government of the United States until properly exchanged; and each company or regimental commander to sign a like parole for the men of their commands. The arms, artillery, and public property to be parked and stacked, and turned over to the officers appointed by me

to receive them. This will not embrace the side-arms of the officers, nor their private horses or baggage. This done, each officer and man will be allowed to return to his home, not to be disturbed by United States authority so long as they observe their paroles and the laws in force where they may reside.

U. S. GRANT,
Lieutenant-General.

General R. E. LEE.

HEAD-QUARTERS ARMY NORTHERN VIRGINIA,
April 9, 1865.

GENERAL: I have received your letter of this date containing the terms of surrender of the army of Northern Virginia, as proposed by you. As they are substantially the same as those expressed in your letter of the 8th instant, they are accepted. I will proceed to designate the proper officers to carry the stipulations into effect.

R. E. LEE,
General.

Lieutenant-General U. S. GRANT.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 1, 1875.

Official copy.

E. D. TOWNSEND,
Adjutant-General.

Mr. WEST. All the history of General Grant's action, either as soldier or civilian, refutes even the supposition that he would ever seek by force to subvert the principles of constitutional government to a military despotism. The democracy needed some such sham as this to delude the judgment of the people in their reflection upon their late remissness. They knew that when the people came to reflect upon the possibility of the non-coercionists again obtaining power, they would shrink from such a consummation. A magnificent vista of coming power has dazzled the vision of some presidential aspirants; but they will find that the attempt to make the people of this country believe that the man who led the hosts of freedom is now seeking to throttle their liberties, is "the airiest bubble that ever filled" either "an empty head," or a head overcrowded with ambition.

I will digress now to say a few words in regard to an attack made upon the supreme court of my State. It has been stated that the *personnel* of that court was bad, and in support of that statement a decision has been cited of the Supreme Court of the United States recently rendered. That decision is not yet final, an application for a rehearing having been made by Mr. Reverdy Johnson and Judge Black on the ground, among others, that the court had misapprehended the facts of the case; and the presumption is that such eminent counsel would not apply for a rehearing in a case in which they had not been previously engaged unless there were reasonable grounds therefor. Under the circumstances, fair play and common decency would require that the decision should not be discussed in deliberative assemblies.

In much of the discussion in regard to Louisiana affairs the supreme bench of Louisiana has come in for a liberal share of reprehension. I want to show to the Senate who these men are that are so generally condemned here on *ex parte* testimony. To demonstrate how the chief justice of that State is regarded, in 1872 after he had been on the bench four years, and during the sitting of the democratic convention which nominated Colonel John McEnery for governor of the State, and in which convention he was a delegate, and the governor that was afterward nominated by that convention, McEnery, telegraphed to the chief justice of the State, Judge Ludeling, to know if he would accept the nomination of that convention for the office of governor. That honor was declined. Later the

delegates from several parishes to the liberal convention which nominated Colonel Penn for governor met at Monroe during the session of the supreme court, and after consultation they asked the chief justice if he would accept the nomination for governor from that convention, and this honor also he declined. The facts in connection with the case decided by the Supreme Court of the United States were known to those delegates, as they lived in the neighborhood of the railroad which is the subject of that litigation, and among them were leading lawyers in that portion of the State. It is not amiss to state that in 1866 Judge Ludeling and some of his fellow-citizens purchased at a public sale the wreck of a railroad. Their title was attacked in the State courts, and both the district court and the supreme court of the State decided that their title was valid. Another suit was then filed in the circuit court of the United States attacking the sale. The circuit court decided in favor of the sale, and the Supreme Court has recently reversed that decision; but an application for a rehearing is still pending in that case as already stated.

An allusion has been made here to a dispatch sent by Colonel Casey, as if he knew or could foreshadow the opinion of the supreme court in its coming decision to be rendered on the returning-board case. Nobody but Colonel Casey is responsible for that dispatch. At the date of the dispatch he was not even acquainted with the members of the supreme court. The supreme court had refused to recognize the commission of Ogden as attorney-general, on the ground that it was issued in violation of law, having been issued before the canvass of the votes by either of the returning boards; and that probably was the basis of the conjecture on which Colonel Casey concluded that the supreme court of that State was in harmony with the republican party.

In answer to the attack of Senators on the *personnel* of the other members of that court, I shall be excused for stating briefly who those gentlemen are who, without a hearing, are being condemned and denounced here.

The chief justice is a native of Louisiana, a man who has spent his whole life in that State, and up to this time without blemish or the slightest suspicion of disrepute. Those two conventions were composed of his life-long fellow-citizens. Those men that except to his rulings now as chief justice of the supreme court were perfectly willing and indeed anxious that he should become the chief executive of their party and of their people and of their State.

Mr. Justice Taliaferro is a native of Virginia; during many years parish judge under the constitution of 1812. In 1852 he was a member of the constitutional convention which met in that year. In 1861 he was elected as a Union man to the secession convention. He was one of seven of all the Union men elected to that convention who had the courage to refuse to sign the ordinance of secession. In 1868 he was elected to the constitutional convention, of which he was the president; and he was the democratic candidate for governor in 1868 in opposition to Governor Warmoth. He is now nearly seventy-seven years of age, and all his life he has borne an unblemished reputation.

Mr. Justice Howell is also a native of Louisiana. He was several times elected to the office of district judge before the war. In 1864 he was a delegate to the constitutional convention, and in 1864 he was appointed a justice of the supreme court, and in 1868 he was reappointed to the same office. He also is regarded as a man of unimpeachable integrity.

Mr. Justice Morgan is a native of the State. During several years before the war he was judge of the second district court in New Orleans, and was afterward district attorney for the United States at New Orleans. He ranked among the foremost lawyers at the bar. Mr. Justice Wyly is a native of Tennessee, who had a large and lucrative practice in the country after the war, and in 1868 was elected district judge, and afterward appointed to the supreme court.

So all these attacks made upon the supreme court of Louisiana are made upon men who are known and have lived there their lifetimes; and because they have the independence to construe the law according to their consciences and their judgment and their oaths, they are subjected to denunciations unheard of elsewhere outside of Louisiana and certainly that ought not to be indulged in here.

Now, Mr. President, I will claim the attention of the members of the Senate to some of the proceedings had in the so-called investigation of the affairs of Louisiana, and the record of which proceedings is quoted here with such evident satisfaction by our friends on the other side of the Chamber.

In an official report which we have here, the committee state that they undertook no investigation of the election of 1872. They announced this, and that they would therefore first proceed to an examination of the acts of the returning board of the State in respect to the late election, and then to an inquiry in reference to the White League. That was the notice given out to the contending parties in issue before that committee as to the line and scope of their proceedings. That they departed from that line and that they extended that scope without fair notice to one of the contending parties will be made apparent as I proceed

The committee in its report first takes exception to the composition of that board, and says that the law provides that it shall consist of five persons from all political parties, and asserts that it consisted at the opening of the last session of five republicans, and that one of them, General Longstreet, resigned, and a conservative was taken to fill the vacancy. Well, sir, a man is no longer a democrat in Louisiana unless he is willing to be a white-leaguer. I hold the official report of that returning board here, and I will state the composition of that body:

That five persons, to be elected by the senate from all political parties, shall be the returning officers of all elections.

The board was elected in January, 1873.

At the time this election took place the party nomenclature of this State was republican, democrat, and liberal republican.

J. Madison Wells then represented the liberal republican party, T. C. Anderson the conservative party, James Longstreet, G. Casanave, and L. M. Kenner the republican party.

Until the final conclusion of the labors of that board J. Madison Wells, the liberal, T. C. Anderson, the conservative, and Oscar Arroyo the democrat constituted a majority of that board, and there were but two genuine republicans on it.

Mr. PRATT. By whom was that board appointed?

Mr. WEST. That board was elected by the senate of the Legislature. So, as I said in the outset, this report dealt with propositions at variance with its own facts; and then the committee proceed to say that they think the law as to the constitution of the board was not complied with because the democratic member on the last day of the session withdrew and left them, as they said, without a representative. I do not think that proposition is exactly sound; but I

want to show what those gentlemen who take exception to that action did in a somewhat similar case when they were left in the vocative by some of the republican members of a board retiring a little earlier, in 1873. Another senate—because we run a double-headed machine down in Louisiana sometimes: sometimes a conflict between Federal and State authority, and sometimes a conflict between State authorities—a little earlier in 1873 a rump legislature that sat at one time in the upper story of an oyster-saloon in New Orleans elected a returning board to canvass the votes of that State. They elected Archibald Mitchell, B. R. Forman, S. M. Thomas, O. F. Hunsacker, and S. M. Todd; five men. What the politics of the first three are I cannot say in the confusion down there between conservatives, white-leaguers, and democrats. All I know is that they were not republicans; but the other two men, O. F. Hunsacker and S. M. Todd, had always been classed as republicans, and had been elected as republicans to the senate. That board assumed to convene, and in less than twelve hours after it was created it presumed to count the votes of over six hundred polling-places in the State of Louisiana and to transmit them to the secretary of state as the true and lawful and correct result of the election just previously held. I say presumed to transmit them, because I hold in my hand a copy of the affidavit of two members of that board that they never signed that report; that they never examined or compiled those returns, and the whole foundation made by the Senate Committee on Privileges and Elections on the returns of the board of Louisiana, upon which the claim of Mr. McEnery is based, is proved here to have been a fraud and forgery, and the case is without foundation utterly. I will have that affidavit read so that it can be seen that the great returns which are so often claimed here as the basis for the legitimacy of the McEnery government are proved to have been forged or signed only by two members of the returning board; and the third democrat stands ready and does say to-day that he never signed them. I will read the affidavit:

Sworn statement of Oscar F. Hunsaker, chairman of the fusion-Warmoth returning board, and Samuel M. Todd, a member of the same board. (See canvass of fusion returns published in Senate report, pages 81, 82, and 83, purporting to have been signed by Hunsaker and Todd.)

STATE OF LOUISIANA,
City of New Orleans:

This day personally appeared before me, William Grant, United States commissioner Samuel M. Todd and Oscar F. Hunsaker, residents of the State of Louisiana, who, being first duly sworn, depose and say: That they were members of the State senate of the State of Louisiana, sitting in the Mechanics' Institute on the 9th day of December, 1872; that afterward, to wit, on or about the 10th day of December, 1872, said deponents left the senate sitting at the Mechanics' Institute, and united with the assemblage known as the McEnery senate, sitting at Lyceum Hall, in the city hall building of the city of New Orleans; that the senate of the said McEnery assemblage proceeded to organize, and that on or about the date last named said senate proceeded to elect a returning board or board of canvassers, who were to correct, canvass, and compile the returns of election for State officers, presidential electors, &c., under the act approved by H. C. Warmoth November 20, 1872; and said deponents, to wit, S. M. Todd and O. F. Hunsaker, together with S. M. Thomas, B. M. Forman, and Archibald Mitchell, were elected as said board; that the said board proceeded to organize by the election of O. F. Hunsaker, one of said deponents, president thereof; that the said returns were then produced from trunks and carpet-bags in a small room, on an upper floor of the Saint Charles Hotel; that said returns were brought to said room by one O. D. Bragdon, who appeared to be in possession of the same; that said returns had been opened, compiled, and canvassed before they came into the possession of said deponents and the other members of the board; that although said deponents did carefully examine said returns and made themselves cognizant of the nature of the same and the mode and manner in which said returns were compiled, and the result sought to be shown, yet said deponents, neither jointly nor separately nor in any way whatever, signed or authorized any person to sign for them the purported canvass of returns known in the congressional report on

Louisiana affairs as the "Forman returns," dated December 11, 1872, by which returns it was made to appear that John McEnery was elected governor and that the fusion State ticket was elected; neither did they or either of them at any time consent or agree that said purported canvass was or is correct, or authorize the publication of the same in any manner whatsoever; that soon after the meeting of said board of canvassers above referred to one of said board to wit, S. M. Thomas, left the city, and if he ever resigned as a member of said returning board it was not known to either of said deponents, nor did said O. F. Hunsaker, as president of said board, ever at any time receive any indication or any communication of the resignation or withdrawal of said S. M. Thomas from the said board of canvassers; and that neither of said deponents ever met or participated in any canvass of returns after said S. M. Thomas left the city, nor did they ever complete the canvass of said returns, nor did they ever authorize any person or persons to do so for them. Said deponents further state that by the pretended canvass of said returns, as published without the consent of said deponents, the returns from the following parishes are shown to have been entirely thrown out, to wit: Saint Martin, Iberia, Terrebonne, Iberville, and Saint James; that the said parishes were and are well known to be largely republican, the two parishes of Saint James and Iberville alone giving more than 2,500 republican majority; that there was no sufficient proof or good reason why said parishes should have been omitted; that had the vote of said parishes been included in the publication of said purported returns, as of right it should have been, it would have added several thousand votes to the republican ticket; and deponents further say that a fair, proper, and correct canvass of said returns would have shown that William P. Kellogg was elected governor of Louisiana at the election held on the 4th of November, 1872, and said deponents verily believe that said William P. Kellogg was elected governor of the State of Louisiana by the actual votes cast at said election.

OSCAR F. HUNSAKER.
SAMUEL M. TODD.

It is not my intention to open that vexed question here now. I want to show how, when some members of that board were deficient to serve democratic purposes, and when they actually had but a minority of members available and present, some one forged the names of two of the members, and the third member to-day says that he never signed the returns.

Mr. SHERMAN. Is that the same as the De Feriet board?

Mr. WEST. That is the Forman board. When, as on this occasion, the only democrat that they claim they could rely on, retired from the performance of his functions on the returning board, this committee report that that invalidated the whole proceeding; but on another occasion, when they wanted to perfect proceedings, they did not stop about the absence of two or three members, but they took occasion to falsify the returns and to send up a record here to Congress that was an absolute forgery.

Now, exception is also taken to some of the proceedings of the board. This revision of their proceedings is technical. The committee say:

> The law provided that in case of such violence, intimidation, or corruption at or near either poll, either during registration or election, as prevented a fair, free, peaceable, and full vote, the commissioners of election, if the occurrence was on election day, the supervisors of registration, if on the day of registration, should make a full, verified statement of the occurrence, and forward the same with and annexed to the returns.
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> * * * * * * *
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> In only a few instances were there any protests accompanying these returns.

That is to say, the revisers of the doings of the returning board take exception to the fact that according to their construction of the law the board departed from its true letter and exercised functions that were in no way devolved upon it by the law. Sir, had that board been held to a true letter of the law, the whole parish of Orleans, with its 13,000 democratic majority, would have been thrown out; and the democratic contestants before that board appealed to it to become a court of arbitration; and however it may be contrary to law, certainly the side who have been decided against are estopped

from taking exception to it. I should like the Clerk to read what were the principles that guided the action of that board. Had they confined themselves to a strict observance of the law, there were only twelve polls in the city of New Orleans, that gave 13,000 democratic majority—whether legitimate or not I will not here state—where the law had been complied with, and the other one hundred and six could have been entirely thrown out. I should like the Clerk to read that.

The Chief Clerk read as follows:

When the returning officers entered on the discharge of their duties they first took up the parish of Orleans, in which there were one hundred and eighteen polling-places. There being the returns for candidates for a municipal government, two sheriffs, and a great number of minor offices to be canvassed, it was deemed important that the elected candidates should be inducted into office as soon as possible. Immediately on entering into the canvass of the votes in the parish of Orleans, it was discovered that the election had been exceedingly loosely conducted. In not probably a dozen polling-places in the city had all the formalities required by law been complied with. In but a very few cases had the list of voters been kept, or, if kept, returned to the board, and many of those returned had not been signed or sworn to. In many cases the statement of votes showing who had been voted for was not kept, or, if kept, not returned to the board; and in many cases the tally-sheets were not kept, and, if kept, not returned to the board; and in some cases nothing but the unsigned and unsworn-to tally-sheets were all that had been returned to the board. Under such circumstances, if the board should decide that a compliance with all the forms of law would be required to enable them to canvass and compile the votes, it was evident there had been no legal election in the parish of Orleans. The board then decided that if any of the formalities required by law had been complied with, even only a tally-sheet unsigned or sworn to, was returned to it by the supervisors of registration, they would, in the absence of any proof of fraud, intimidation or other illegal practice, canvass and compile the vote of such polling-place. Under this ruling of the board the canvass and compilation of the vote of the entire State proceeded. It became the duty of the board to carefully examine the returns from every polling-place in the State, over six hundred and fifty. This was done by the members of the board in person, and it occupied the board from eleven a. m. to four p. m., and from six to ten o'clock p. m. of almost every day for a month. During this period much time was taken up by counsel, who were almost every day raising questions and making motions. It is proper here to state that when the board entered on their labors, they permitted each of the political parties to be represented by counsel before the board, to make any suggestions or motions they might think proper, and this privilege was liberally availed of by counsel.

* * * * * * *

It was the opinion of the board that the forms of proceeding in regard to ascertaining whether the election had been affected by any riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences pointed out in sections 3 and 26 of the election law, were merely directory, and that it was the duty of the board to inquire into any of those acts, when brought to their attention by any satisfactory evidence; the board was confirmed in this view of their duty by the precedent set by the acts of the returning board in 1870 and 1872, (the act of 1870 on the subject is the same as the present law,) and this seems to be the reasonable and proper construction of this law; this is part of the duty of the board in their work of canvassing the vote.

Mr. WEST. This inquiry as to the doings of that board, after contending that the board should be held to a strict construction of the law, proceeds to say: "In only a few instances were there any protests"—meaning protests according to law—"presented." The fact is that there were protests before that board from twenty-eight parishes, or one less than one-half of the entire parishes of the State. Protesting, making affidavits of riots, intimidation, or violence, is not a healthy business in some portions of Louisiana. An officer of the Army has been held up to censure because he, in his capacity as a citizen, interposed and made affidavits against five persons for a violation of a section of the civil-rights bill; and he states in his official report what actuated him to do it. "My name was appended to affidavit, because any one else who signed it would have been killed, and not to constitute myself prosecutor, which I have not done."

The United States commissioner resident at Shreveport, when urged to a faithful discharge of his duty by this military officer, replied that it would be certain death for anybody to initiate such proceedings; and the committee says that reports were scarce and could not be had. That is what the committee says, but the board say that they had reports from twenty-eight parishes notwithstanding. The *gravamen* of the charge against this returning board is that they changed a return from twenty-nine majority democratic to a tie, and the principal efforts to establish that fact are directed to the four parishes of Bienville, Grant, De Soto, and Winn, and I may here, in passing, comment upon some alleged facts presented here by a Senator a few days ago, who prefaced his remarks by saying that he did not want to be interrupted and consequently corrected.

I heard a Senator here offer an admonition to his fellows not to take newspaper reports as a record of what was being done, not to draw a picture of society from newspaper reports; but the same Senator in order to establish a fact before the Senate chose to ignore official documents lying on his desk and under his eye and rely upon a newspaper for his facts, and he had to search very industriously to find that newspaper, because it was only in one newspaper that that error was committed. With the official report of this committee before him, with the report of the conservative members of that so-called Legislature, he chose to ignore them and to avail himself of a typographical error made in one paper in this city in order to get thirteen votes for his candidate.

Mr. THURMAN. Who does the Senator allude to? I am not conscious of having referred to any newspaper.

Mr. WEST. I did refer to the Senator, and I will tell him why I referred to him.

Mr. THURMAN. To what newspaper did I refer? If I did so, I have forgotton it.

Mr. WEST. I did not say that the Senator quoted a newspaper, but I say he quoted a fact erroneously and accidentally misstated in that paper, in support of his proposition when an official document was on his desk——

Mr. THURMAN. What was it?

Mr. WEST. I will state. He said that there were 71 votes cast when Mr. Wiltz was elected. The report of this committee which I am now discussing says 58. The report of the conservative body says 58. These were before the Senator on his desk; but the morning Chronicle in this city, the day that happened, made a typographical error and gave blank credit for 14 votes by mistake. I do not know whether that is the identity of the Senator's information or not, but such are the facts.

Mr. THURMAN. I made no reference to the Chronicle, but I should be perfectly willing to take the Senator's statement if 58 is not a quorum and two over. But I had (and I will bring it into the Senate to show to the Senator but I will not interrupt him too much) precisely the statement which I read.

Mr. WEST. If I have not stated the Senator's position correctly he will pardon me, for the reason that I have not his remarks before me. I caught them by ear, and I know that he asserted, if he has not expunged it from his speech, that there were 71 votes cast that day.

This report alleges that a majority of 29 had been changed, and they took exception to the action in the cases of Bienville, Grant, De Soto, and Winn Parishes. I should like to have read from the

official report of the returning board what was the action in those parishes, and to show that the board acted in strict conformity with the provisions of the law when it absolutely and positively excluded the count of those parishes from their returns. There was nothing transmitted to the Legislature. It was a mere ministerial act, in accordance with law that, being satisfied themselves that such violence and outrage existed in those parishes as vitiated the election, they had the right, and it was their sworn duty, to exclude those parishes from their count. I ask the Clerk to read what is said about these parishes in the report of the returning board.

The Chief Clerk read as follows:

BIENVILLE.

This parish was entirely rejected. The evidence showed that this parish adjoins the parish of Red River, in which the Coushatta murders took place, and that many of the persons who participated in those murders were from this parish; that soon after these murders, and before the 14th of September, 1874, the tax-collector of this parish was forced to resign by a committee of white-leaguers; that colored school-teachers were whipped and driven out of this parish; that the leading republican in this parish was advised, and acted on the advice, not to attempt to organize the party or to vote. There was not a republican vote cast in this parish. That the registration shows that 780 white and 442 colored voters were registered, and the pretended returns from this parish showed 779 votes and nearly the same number of white registered voters. The board was satisfied there was no fair, peaceable, or free election in this parish.

GRANT.

The vote of this parish was thrown out; the evidence satisfied us that the election was entirely irregular in this parish, and that intimidation prevailed at every poll in this parish. The direful effects of the Colfax massacre is so severely and generally felt in this parish, that it cannot be said there was a free, fair, and peaceable election at any poll in this parish. This parish is strongly republican.

DE SOTO.

Under the fourth head of objections to parishes or polling-places being canvassed and compiled, it was found that the supervisor of registration for the parish of De Soto had made no return of the election in this parish to the board. It is proper to remark that the first supervisor of registration appointed for this parish was one of the men murdered at the Coushatta massacre. There is no officer authorized to make the returns of election to the board except the supervisor of registration; it is to him that the list of voters and tally-sheets are to be delivered and by him transmitted to the board, as well as the statement of votes and condensed statement of the votes of the parish. Coming through him, the legal officer, it carries with it that all the other forms of law have been complied with, and leaves the board only to canvass and compile the votes. In this case the clerk of the court of that parish offered to produce to the board the duplicate statement of votes said to be furnished him by the commissioners of election, also tally-sheets; but in order to verify those documents as genuine, and such as ought to have been produced by the supervisor, it would be necessary for the board to go into evidence on the subject.

It was stated to the board, during the canvass and compilation of the votes, that the democratic counsels in attendance on the board had had the supervisor of registration of the parish of De Soto arrested and brought before United States Commissioner Craig, on the charge of concealing the returns of that parish from the board. It was also stated that the supervisor had the returns with him when brought before the commissioner, but that he was discharged by the commissioner on some compromise made with him by the democratic counsel. *There was no evidence before the board that a prostitute had the returns and was offering them for sale. Such thing was casually stated to the board, but not as evidence*, and was not reduced to writing and was not considered by the board as anything more than a passing remark. Not being a court of general jurisdiction, it was the opinion of the board that it could not verify an act on such documents, and declined to receive and act on them. The counsel for the democratic committee applied to the proper court for a *mandamus* to compel the board to receive such evidence of the election and canvass and compile the votes therefrom; but after pleadings and full arguments of counsel the court refused the *mandamus*. This decision of the court sustaining the position taken by the board, the board, in other cases where the supervisor of registration had failed to make returns of any poll, held that the default could not be supplied, and that if any party should be injured by it they would have their legal recourse, as the law is understood to afford ample relief in such cases.

Under the fifth head of the protests and objections, as above stated, comes the parish of Winn. The evidence showed that James P. Reidheimer, resident of that parish, had been appointed supervisor of registration for the parish by Governor Kellogg on the 7th day of August, 1874, but that by letter to Governor Kellogg he had resigned, or rather refused to accept the appointment, and had failed to qualify. Afterward Governor Kellogg appointed C. S. Randall to this office, who qualified and went forward to discharge the duties of the office. Upon applying for the papers and blanks which had been forwarded to Reidheimer when he was appointed, he refused to deliver them to Randall, who was then threatened with death if he did not leave the parish, whereupon he left the parish subsequently without any notice to Governor Kellogg. Reidheimer proceeded to make a registration under which the election was held, and he (Reidheimer) made return to the board of said election.

The board also had before them the certificate of the secretary of state, showing that C. S. Randall was the legally-appointed supervisor of the parish.

It was from this evidence the opinion of the board that there had been no legal registration of the voters of this parish, without which there could be no legal election, and that the unlawful act of Reidheimer in not turning over to Randall the books and blanks to enable him to make a legal registration, and the violent acts of the citizens in ordering Randall away from the parish on pain of death, made it the duty of the board to reject the pretended returns and vote of this parish.

Mr. WEST. I was calling attention to the fact that there were four parishes in dispute, or rather, the whole affair of the 4th of January last depended greatly upon what action might be had in reference to the elections in those parishes. In one of them, Bienville, the board threw out the returns because a republican was not allowed to vote in the whole parish. In Grant, a republican parish, and largely republican, the scenes of disorder were so great that this board could not find it their duty to admit that parish.

Mr. MORTON. Is that the parish in which Colfax was?

Mr. WEST. That is the parish in which Colfax is situated. In the parish of Winn, the legally appointed supervisor of registration was threatened with his life if he undertook to exercise the functions of his office, but the white-leaguers improvised a registrar, and he conducted the registration; and they asked the returning board to consider such returns as those!

In De Soto the registrar being satisfied that the whole proceedings were violent, and not being able to get any affidavits to substantiate his position, came down and met the returning board and the white-leaguers, and they endeavored to compel him to produce those returns and he did not do it and the board had nothing before them. We remember with what unction our friends contended that those returns were in the hands of a woman of bad character and were offered for sale for a thousand dollars. The returning board say that there was no evidence of that kind. It was casually stated to the board, but was not offered as evidence and was not reduced to writing and was not considered by the board as anything more than a passing remark. If such was the case, the contending parties on the other side had ample opportunities to establish it, and they should not state it now unless they made the allegation good at that time.

Now, what does this committee show was done with these returns? They start out with the broad proposition that twenty-nine men were changed and they only show you by their report that four were changed. In the parish of Rapides three were changed according to the judgment of the returning board, and in the parish of Terre Bonne one was changed. So with all the scrutiny and investigation of this committee, starting out with the broad assertion that twenty-nine were changed, they only show you that four were changed. We come now to what this committee say upon the general subject of

the general condition of affairs in the State, and they start out with this proposition:

Both parties agreed upon four parishes as samples of the condition of affairs, in that respect, in the State. Of these, owing to the impossibility of procuring witnesses from the locality in time, your committee were obliged to confine their especial examination to two parishes most accessible.

Then this investigation that went broadcast over the State of Louisiana, that presumes to give you an epitome of its condition, moral, political, and social, confined itself ultimately to two parishes, and the testimony does not show that they examined more than one. How were those who assumed the negative of the proposition which seems to have impregnated the whole action of this committee to know what parishes were examined? How were they to get their witnesses there to testify as to the facts? Is it any wonder, with such a proceeding as that, that they came to the conclusion that they were constrained to say that the intention charged is not borne out by the facts, that no general intimidation of republican voters is established? I can take you to a parish in that State where there is no intimidation, and it is possible that this committee selected those very parishes to examine. Intimidation in the State of Louisiana and throughout the South did not commence with the election of 1874. The echoes of the last gun fired at Appomattox had scarcely died upon the ear before this intimidation was practiced broadcast throughout the South, and it has continued to be up to the present day. I speak for my State. I show to the Senate the record that throughout its existence since the day of reconstruction there has been nothing but intimidation, proscription, murder, and violence practiced by the democrats of that State.

From 1866 to the present time there have been nine great butcheries or massacres for political reasons in the State of Louisiana. In 1866, in New Orleans, two hundred persons were killed, and one hundred and sixty were taken to the marine hospital, and the surgeon on duty at that time and the surgeon now on duty—the same man—has asserted to the fact that after those wounded men were taken to that hospital the rioters formed a line in its rear and fired a volley into its chambers. Here is one of the volumes of the history of affairs in Louisiana. The history of violence in Louisiana is not to be learned in eight days. It lies here under my hand in eight volumes of testimony, every page telling of a life and every word upon every page counting for a drop of blood shed in the sacrifice of political opinions. What did the committee then say? I will read briefly their opinion of that horror:

There has been no occasion during our national history when a riot has occurred so destitute of justifiable cause, resulting in a massacre so inhuman and fiendlike as that which took place at New Orleans on the 30th of July last.

* * * * * *

The massacre was begun and finished in midday; and such proofs of preparation were disclosed that we are constrained to say that an intention, existing somewhere, to disperse and to slaughter the members of the convention, and those persons, white and black, who were present and were friendly to its purposes, was mercilessly carried into effect.

No intimidation in Louisiana!! And yet in the same year the Bossier Parish massacre took place, in which over three hundred were killed and wounded; the Saint Landry massacre, in which two hundred were killed and wounded; the Orleans massacres, in which sixty-three were killed and wounded; the Caddo massacre, in which forty-six were killed and wounded; the Jefferson massacre, in which forty-seven were killed and wounded; the Saint Bernard massacre, in which sixty-eight were killed and wounded. All these occurred in the one year, 1868.

Here is the experience of some of the officers of the Army of those practices. Here is an officer reporting about the massacre in Saint Bernard Parish. He says:

Practically there is no civil law in Saint Bernard Parish. A company of United States troops are now doing duty there, and their continued presence is necessary to protect from outrage men loyal to the Government, to prevent the murder of freed people, and to preserve general peace and tranquillity throughout the parish; and it is my opinion that the men now living in that parish who have recently committed murder with impunity will not be arraigned nor brought to justice except through the direct agency of military power.

I am, major, very respectfully, your obedient servant,

J. M. LEE,
First Lieutenant Thirty-ninth United States Infantry, A. A. I. G,

Brevet Major B. T. HUTCHINS, *A. A. A. G.,*
Bureau R., F., and A. L., New Orleans, Louisiana.

After speaking of sixty-one murders perpetrated between October 23 and November 21, 1868, he says:

In conclusion I desire to represent that upon entering on duty in this bureau as acting assistant inspector general, on the 18th of September last, I thought it impossible that crimes so bloody and rioting could or would be perpetrated with so much impunity and wantonness by any people in a civilized country as those which have been brought to my attention, and which I have in many cases investigated. At first I thought the general reports and published accounts of the carnival of crime in this State were vastly exaggerated, but the plain, clear, and indisputable facts which have been developed, and the cumulative evidence which has been and can be brought forward at any time, carries the conviction to any honest and candid man that lawlessness, anarchy, and crime predominate in the State of Louisiana, subjecting the loyal and peaceable citizens of this State to a reign of terror which they cannot avert, and from which they cannot escape through any efforts of their own.

I am, major, very respectfully, your obedient servant,

J. M. LEE,
First Lieutenant Thirty-ninth Infantry, A. A. I. General.

Brevet Major B. T. HUTCHINS.
A. A. A. G. Bureau R., F., and A. L., New Orleans, Louisiana.

Now, sir, what was the effect upon the election of 1868 of such violence, and what were the violences that preceded the last election and what was the effect of them?

The day of election in 1868 was as peaceable and quiet an election day as ever occurred in this country. Yet in the parish of Orleans, where there were from 13,000 to 16,000 registered republican voters, the total vote cast for General Grant was only 270; in the parish of Bienville, out of 715 registered republican voters, 1 vote was cast for Grant; in the parish of Bossier, out of 1,895 registered republican voters, 1 vote was cast for Grant; in Caddo, out of 3,134 registered republican voters, 1 vote was cast for Grant; in Calcasieu, out of 245 republican voters, 9 votes were cast for Grant; in Claiborne, out of 1,293 republican votes, 2 votes were cast for Grant; in Morehouse, out of 1,330 registered republican voters, 1 vote was cast for Grant; in Sabine, out of 227 registered republican voters, 2 votes were cast for Grant; in Saint Bernard, out of 610 registered republican voters, 1 vote was cast for Grant; in Saint Landry, out of 3,641 registered republican voters, not one vote was cast for Grant; in Union, out of 872 registered republican voters, 1 vote was cast for Grant; in Saint Martin, out of 933 registered republican voters, 25 votes were cast for Grant; in Saint Helena, out of 569 registered republican voters, 136 votes were cast for Grant; in Avoyelles, out of 2,188 registered republican voters, 520 votes were cast for Grant; in Catahoula, out of 992 registered republican voters, 150 votes were cast for Grant; in Caldwell, out of 586 registered republican voters, 28 votes were cast for Grant; while in those banner democratic and White League parishes of De Soto, with 1,403 republican voters; Franklin, with 507 republican voters; Jackson, with 822 republican voters; Lafayette, with 897 republican voters; Vermilion, with 282 republican voters; and Washington, with 168 republican voters, not one solitary republican vote for Grant was cast in all those parishes. The net result of the democratic and White Camellia campaign of 1868 was that out of 36,278 republican votes in twenty-two parishes of the State, through intimidation, fear, and terrorism resulting from the massacres before enumerated, only 1,118 republican votes were allowed to be deposited for General Grant.

Sir, is it to be supposed that the massacre of Colfax had no effect in intimidating republicans in that part of the State, where one hundred men were slaughtered, and slaughtered simply because they

were maintaining their right to their own political opinions? Had Coushatta, where six men were treacherously murdered, robbed, mutilated, and nameless outrages perpetrated upon their remains, until, as the testimony shows, they were so hacked to pieces that it was difficult to bury them, no influence in intimidating voters in Louisiana? Had the affair of the 14th of September, where some fifty or sixty lives were sacrificed, no influence in intimidating voters in Louisiana? And yet your committee say that no general intimidation of republican voters was practiced in the State! Colfax, Coushatta, and the 14th of September did for the election of 1874 what Orleans, Bossier, and those up-river parishes did for the election of 1868, and that conclusion is irresistible.

The Shreveport Times of July 29 says:

> There has been some red-handed work done in this parish that was necessary, but it was evidently done by cool, determined, and just men, who knew just how far to go; and we doubt not if the same kind of work is necessary it will be done. We say again that we *fully, cordially approve* what the white men of Grant and Rapides did at Colfax; the white man who does not is a creature so base that he shames the worst class of his species. We say again we are going to carry the elections in this State next fall.

The man who dares even to dissent from the outrages perpetrated by miscreants in the murders at Colfax and the murders at Coushatta "is a creature so base that he shames the worst class of his species." Can you expect men to go before a committee and testify to the fact that violence and disorder exist in that State?

I should like to say a few words now, Mr. President, upon what this committee say about the general condition of affairs in the State of Louisiana. After first starting out with the proposition that they would not examine anything but the condition of affairs in two parishes, and when they only did examine one, they come to this conclusion:

> The general condition of affairs in the State of Louisiana seems to be as follows: The conviction has been general among the whites, since 1872, that the Kellogg government was a usurpation.

I am aware that that is the conviction. How that conviction was created is well known. It commenced by a little coterie, a ring of political adventurers, in New Orleans, who undertook to manipulate the election machinery of that State, and who personally admit today that their operations were unsuccessful, and that they had palmed a fraud on the whole of the people. Suppose that conviction is among the white people of the State, only among the white democrats, even if it is universal among them, the colored people do not think so; and because that minority believe that the government is a usurpation, is that any reason or cause for characterizing it as such?

> This conviction among them has been strengthened by the acts of the Kellogg Legislature abolishing existing courts and judges, and substituting others presided over by judges appointed by Kellogg, having extraordinary and exclusive jurisdiction over political questions; * * * by the abolition of courts with elective judges, and the substitution of other courts with judges appointed by Kellogg in evasion of the constitution of the State.

Mr. President, the question of Governor Kellogg's authority to do this has never been raised except by the political clique that I mentioned. The people generally have recognized those courts; the bar of New Orleans, which is almost universally democratic, has never taken exception to the act of the governor in that respect. The politicians have done it, but the law-abiding citizens have not.

"By enactments punishing criminally all persons who attempted to fill official positions unless returned by the returning board," all that is needed in certain parishes is to get eight or ten men with bowie-

knives and they will remove any man they please, and without any title whatever take possession of his office. Are not laws necessary to protect a community against such an outrage as that?

By changes in the laws, centralizing in the governor every form of political control, including the supervision of the elections; by continuing the returning board, with absolute power over the returns of elections.

Mind you, Mr. President, this is an arraignment of what has been done under what is known as the Kellogg administration, and there is the assertion of the fact that the Kellogg administration is responsible for centralizing in the hands of the governor all political control in the supervision of elections, when the record is well known, and it has been shown here, that all the legislation that has been had by the Legislature under Governor Kellogg has been in the direction of liberalizing the election laws; and they are more liberal to-day than when he came into power. I have told you this was a democratic White League brief, and I think I will convince you of it before I get through—

By the extraordinary provisions enacted for the trial of titles and claims to office.

All these provisions were enacted by a preceding administration, and they were made necessary by the circumstances to which I have adverted. They were not enacted by the Kellogg government; and I may remark just here that I challenge any member on the opposition side of this Chamber to show any act of the Kellogg legislature to which he or the people of Louisiana can take reasonable exception—

By the conversion of the police force, maintained at the expense of the city of New Orleans, into an armed brigade of State militia, subject to the command of the governor.

The police act of New Orleans was enacted in 1869, at a time when the militia laws of the United States, as applicable to that State, were in suspense. Congress, in July, 1867, suspended those laws with reference to Louisiana and renewed them in 1869; so that, whatever reason there might have been for the passage of such a law at that time to maintain the government, the denunciation of it does not apply nor pertain to the present government.

But it was not considered judicious to arm the militia there in that State at that time. It was neither lawful nor judicious. Subsequently it became lawful; but it never became judicious, because the white-leaguers, who were sworn in by the governer of the State to protect its laws, to maintain its constitution inviolate, ignominiously laid down their arms at the first demand on them to do their duty. That is the kind of militia we had in New Orleans and in Louisiana.

By the creation in some places of monopolies in markets—

True, the Legislature of Louisiana, under the Kellogg administration, has passed an act with reference to markets. That act was proposed to them and solicited from them by the democratic administration in the city-hall of New Orleans. What was that legislation? Simply as the markets belonged to the city of New Orleans and as democrats were their lessees, it was due to those democrats to protect them in the value of their property by prevening the interposition of private markets within a reasonable distance. That is the monopoly of markets that is charged here upon the republicans; which was done to keep the democratic coffers of the city of New Orleans replete with revenue, and which is now taken exception to.

Gas making—

We have had a monopoly of gas oppressing us like the monopoly

in this city. In the city of New Orleans we have had it for twenty-five years. It is an old democratic institution, belonging to some of our oldest and best. How, in the name of Heaven, is the Kellogg government responsible for what occurred thirty years before we ever thought of having such a government there?

Water-works—

Ditto for that; water-works belonging to the city of New Orleans, and the city administered by democratic officials, and yet the republicans are charged with having a monopoly of them!

Cleaning vaults and removing filth—

That is a business which we are perfectly willing to surrender to the other side.

Doing work as wharfingers—

I was surprised at that. There are twelve wharfingers holding position in New Orleans. They are every one of them democratic appointments, and they have a monopoly of the business. They have a monopoly of drawing their salary, four of them at $1,800 a year, and eight of them at $1,200.

Mr. SCOTT. And controlled by the State.

Mr. WEST. Yes, controlled by the city under the State; and they are democratic appointments, every one of them. That is one of the charges brought against the republicans.

By unlimited appropriations for the payment of militia expenses and for the payment of legislative warrants, vouchers, and checks issued during the years 1870 and 1872—

There was such a provision ingrafted upon an appropriation bill, as it passed the Legislature, and the governor could not veto that bill without stopping the whole wheels of government. He signed the bill, but he promptly, through his attorney-general, instituted proceedings and enjoined such action; and to-day I am informed that not one dollar has been drawn out of the treasury under such surreptitious proceedings.

By laws declaring that no persons in arrears for taxes after default published shall bring any suit in any court of the State or be allowed to be a witness in his own behalf—

That is one of the methods that has been resorted to to strangle the existence of republican government in that State. In the testimony taken in what is known as the investigation of Louisiana affairs, the secretary of one of the tax-resisting associations was put upon the stand in a room in this building and he testified to the existence of a league, not embracing all the people of Louisiana who were tax-payers, but thinking that nine-tenths of them would refuse to pay their taxes. There is the sworn testimony of the secretary of that league that they intended to resist by all constitutional means the payment of taxes. I do not blame them for that. I blame no man for resorting to constitutional means to assert his rights; but I maintain that we have the right also to resort to constitutional means to make him perform his duty.

Then again, with reference to the financial condition of the State—

The securities of the State have fallen in two years from 70 or 80 to 25,

I scarcely wish to weary the Senate with all the circumstances under which the securities of the State of Louisiana have been sealed; but it is well known here, or if it is not remembered now I will remind the Senate that by an act of the Legislature at the last session, an act framed and originated in and solicited by the New Orleans Cham-

ber of Commerce, (and when you say that you say by the leading democrats of the city,) the debt of the State of Louisiana has been scaled and there has been a consequent depreciation of its value. That is to say, a debt of 100, according to the constitutional amendment recently passed, is now only worth 60. Consequently there has been a decline from 100 to 60, a decline made in the interests of the people of Louisiana generally, whether property-holders or mere indirect tax-payers—a reduction that they asked for. Therefore the reduction of the debt or the depreciation of the value of that debt to at least that amount cannot be charged to the wrong-doing of the republicans. But they say it has gone down to 25. Ah, yes! and it will go down to zero if you keep up your strife. Keep up your revolts, your revolutions, your threatenings, your proscriptions, and your violence and your bonds will go to protest, and Louisiana will have no place to lay her head in Wall street.

Then the securities of the city of New Orleans have fallen from 80 or 90 in two years to 30 or 40, as the committee state. There is another evidence of your violence and intimidation and the shrinking always arising from fields of strife and insecurity. But why was it so? Did the republicans have control of the city of New Orleans in the last two or three years? When the republican administration went out of power in the city of New Orleans her bonds and securities were worth 90 cents to a dollar; to-day they are worth but 30; and yet that is charged as one of the faults of the Kellogg government. That is one of the faults of the republican Legislature of Louisiana, who, coming to the relief of these very securities, has offered a constitutional amendment, which has been adopted by the people, that the debt of the city of New Orleans shall not be increased. Where is the responsibilty there? It is with the democratic city administration and with that inherent spirit of bedevilment that infests that community that does not inspire confidence in its ability to keep its engagements. The governor in his last annual message calls attention to this fact. He says:

> In the year that is just ended the receipts have been nearly equal to the expenses; the rate of State and city taxation has been largely reduced, and for the first time for many years not one dollar has been added to the public debt, which, on the contrary, has been considerably reduced.

"Taxation has been increased. Property cannot be sold for the taxes." That is so. Some property in New Orleans cannot be sold for the taxes, because there is year upon year, and sometimes five years of tax resistance to pay on it, and who wants property in that State when taxes encumber it? That is the fact. When you come to find out that property can be bought for taxes, it is because there are five years of tax resistance encumbering it. When the Kellogg administration was inaugurated, the taxes in the State were 21½ mills—two cents, and fifteen-hundredths. Now, by the act of this republican Legislature, ratified by the people of the State, the tax is 14½ mills. When the Kellogg administration went into power the city taxes were 30 mills. By the act of the Kellogg legislature, ratified by the people of New Orleans, the taxes have been reduced to 25 mills, and yet that government is charged with encumbering the people with taxation and increasing its burdens untold!

Mr. President, I must confess my indignation at the character of this report, that men who had the opportunity to have learned the true state of affairs, men who could not have failed to have known by all the history of the day of the acts of violence that have been perpetrated in that community for the last nine years, should tell you

that life is secure there, and confine their inquiries to the stealing of a few chickens. In order to establish that fact, they even resort to the potent and reverend authority of a prelate of the church, a humane, considerate, and compassionate bishop, who, deaf to the outcry of his fellow-men, oppressed and done to death, lends a sympathetic ear to the cackle of a captured chicken or to the squeal of a purloined pig, and laments the destruction of the fat of the land and the wasting thereof. Lofty, dignified, and earnest investigation is that which turns away with indifference from the wail of thousands of human beings, and in solemn pomp weeps over the fate of a dead rooster. That is the way the outrages and the sacrifices and the murders are treated in my State. Chicken-thieves and pig-stealers! That is all the evidence they could find on the subject.

I have no desire, Mr. President, to detain the Senate longer with this category of evils and outrages. I always preface what I have to submit in regard to Louisiana by saying that it is an unpleasant necessity forced upon me; and with a few more remarks I will conclude. The committee directed their attention to the organization of a White League, and they say of it in New Orleans:

> That league is an organization composed of different clubs, numbering in all between twenty-five and twenty-eight hundred.

To be sure, there is another party of white-leaguers throughout the State, but it must not under any circumstances "be confounded with the White League of the city of New Orleans."

Their objects and aims and purposes and organization are all the same. I do not think that either party would suffer much in reputation by being confounded with the other; but look at the pretext under which this committee wants you to believe that White League was organized:

> Their purposes they declare to be simply protective.

There are one hundred and fifty thousand white people in the city of New Orleans and fifty thousand blacks. The white people are organizing; the committee certifying—

> Nor, on the other hand, did it appear that there was any extensive secret league among the blacks of any kind.

Three white men organizing and providing themselves with arms to defend themselves against one black man! It is preposterous, Mr. President.

Now, we hear the question asked constantly on this floor why is not the civil law effective in the Southern States? If these murders are perpetrated, why do you not punish them? We have answered on one or two occasions and sufficiently, that the officers of the law in the prosecution of their duty have been foully murdered. But I will go to a more general review of the condition of the law and its administration in the Southern States. I would like to read to you here what is said by a practitioner at the bar about the administration of justice in the Southern States generally. He says:

> The laws of the States designed for the protection of life and property are not enforced with certainty, and in cases where they are violated by members of the democratic party for political purposes they are violated with impunity. Congressional investigations have made known to the world that secret oath-bound organizations exist throughout the Southern States; that their object is by force and violence to prevent the newly-enfranchised race from exercising the right of suffrage, and thus to deprive them of political power; that in the execution of their design the members of these secret organizations have committed crimes without number of a nature calculated to intimidate and terrify, and that they are as free

from fear of punishment, or cause to fear, by the enforcement of the laws of the States in which the offenses were committed, as though they were wholly guiltless. So prevalent and powerful is the sympathy for those who commit these acts, that before it the law is insignificant and powerless. In the rarest instances has a grand jury preferred a bill of indictment against any of the perpetrators of these crimes, and in no instance that has come to our knowledge has a petit jury been found to return a verdict of guilty against the perpetrators of even the most unprovoked and cruel murder when committed upon the person of a republican for political reasons. In this country the law is sustained by public opinion, and public opinion is stronger than the law. Our fathers in the foundation of our system of government never realized that the day would come when the lives of American citizens could be taken unlawfully and in great numbers, and no witness to such deeds could be found to prefer a complaint, no sheriff to execute a warrant, and no sentiment in the community sufficiently strong to secure the condemnation of the offense or the punishment of the offenders. Yet this is the case in the Southern States to-day. A powerful press preserves silence as to the offense, or persistently misrepresents the circumstances under which it was committed, or, where concealment is no longer possible, boldly defends the act of the criminal. The character of the dead victim is maligned, and a deed of blood, horrible in its details, is exalted into an act of patriotism. Where, under the laws of the General Government, the United States courts have jurisdiction of the offense and succeed in arraigning the criminal, the more talented and influential members of the legal profession hasten to volunteer their services in his defense; and where bail is required for the appearance of the offender, the wealthy members of the community eagerly place their names upon the bond. Upon the trial it is simply impossible to secure, fairly and in the manner prescribed by law, twelve men who will decide impartially between the Government and the accused, and render a verdict in accordance with the law and the evidence. Those men who have sworn to murder when commanded by their secret organizations, and who were perhaps accessory to the commission of the offense, readily appear upon the witness-stand to prove that the prisoner was engaged in innocent occupation far from the place where the crime was committed. All the influence and power of the democratic party are exerted in the defense of the accused, and he may well view with indifference the efforts of those whose duty it is to secure the infliction of the penalty for the violation of the law. The criminal offenses over which the United States courts have jurisdiction are limited in their number; and the only restraint upon the commission of crimes of the nature indicated exercised by the Federal courts springs in most cases from the annoyance and expense of undergoing a form of trial, and not from the fear of conviction or its results. If in a rare instance a conviction should be had, the criminal, however heinous might be his offense, however much in violation of the laws of his country and of God, would find sympathy and comfort and support from the members of that party in whose cause he was required to suffer. With no sense of disgrace, no feeling of remorse, but with a mind imbued with the teachings of his democratic leaders, he would endure the penalty for his offense with the pride of a patriot and the fortitude of a martyr.

Such is the manner in which crimes of the greatest atrocity are treated at the South. Those who commit them have the warmest sympathy of the democratic party there, and the democrats of that region find sympathy, countenance, and support among the democrats here. If that is not apologizing for murder it is sympathizing with those who sympathize with those who commit it, and under that refinement of distinction apologists for those murders must take refuge.

I would like to say a few words with reference to the proscription, the ostracism that is practiced upon the republicans throughout the South in reference to their political opinions. In 1868 the democratic party of Louisiana issued an official circular from which I will quote an expression. Here it is, signed by the president of the State central committee and by four of his fellow-members, I presume the executive committee. Speaking about the resentment that should be entertained against white republicans, it says:

> But in no case should you permit this resentment to go further than to withdraw from them all countenance, association, and patronage, and thwart every effort they may make to maintain a business and social foothold among us.

Republicans are to be thwarted in every way, not to be allowed to follow the ordinary pursuits of life. They are to be treated as

pariahs and outcasts and not to be admitted within the sacred social circle. That was the gospel of peace that was promulgated in 1868, and it has been followed out bitterly and mercilessly up to the present hour. In the documents that were sent to us in the message of the President of the United States the same proscription was iterated and reiterated over and over again, according to the excerpts that he sent us from the press throughout the State. In the city of New Orleans a merchant of high and honorable character and unblemished repute who had the independence and the candor to come before this committee and to state in words, scarcely using the strong terms I have to-day, that he believed the action of the republicans of Louisiana since they last came into power has contributed to the interest of the people, became an outcast on the following day among his friends and acquaintances of fifty years. He was a leading banker presiding over an institution of a million dollars northern capital. He had been for several years president of the chamber of commerce; and because he had the independence and candor to go before that committee and to state that he believed that the evils of the hour were not altogether attributable to the republicans, he was made an outcast and an exile, and this cruel treatment brought him to death's door.

Sir, this report talks about republicans holding office in Louisiana. Is it a crime to hold office? Where are we to get the material of a republican party when you concentrate upon us a circle of fire that consumes every man within its limits? I assert it here to-day that if any democrat in the State of Louisiana should accept with good faith, and with the intention of protecting and conserving the interests of his fellow-citizens, an appointment from Governor Kellogg, he would be a tabooed man, and he would be as an alien and a stranger among his neighbors.

Mr. President, it might be expected that I should say something about the causes of these political and social contentions in Louisiana, and that I should suggest some way of allaying them. To recount all these causes would weary your patience, even were I familiar with them all. The bitterness of past strife—the fall from affluence to poverty consequent upon that strife—the necessity to labor consequent upon that fall—contact with the cause of all this in the presence of the old slave now in many cases the dominating political instrument—changing channels of trade—failing crops and flooded fields—paralysis of capital—shrinking of investments in dismay from the insecurity engendered by strife and turbulence—greed of office whose emoluments are simply an imposition and an outrage upon an impoverished people—stimulating sympathies from northern allies, who in their partisan zeal encourage the employment of unlawful means to set aside the constitutional amendments and the reconstruction and insurrection laws of the United States—immunity from punishment for crimes—martyrdom and adulation for suffering under the hated law, however much deserved—serve to make up a comprehensive demoralization that saps and corrupts a civilization.

There are other evils. There are evils directly traceable and chargeable to the republican party. I will admit it. But when I am defending my house against the assaults of my mortal enemies on the outside, I have not time to reform the abuses existing within my doors. We have shown our intention, ay, we have shown our performances in the last few years to better and to remedy the condition of affairs. We have relaxed the stringency of laws; we have reduced taxation; we have yielded to all the demands for

reform and good government; but they do not stop their murders, and until they do you must excuse us that we give more attention to the more serious matters that occupy us.

With respect to our political organism, it was created by the reconstruction acts as completely as would have been the case had the State neither previous political existence nor history. A new and a controlling element, an element without education, without experience, and naturally antagonistic politically to the intelligence and property and the wealth of the State, has been put in charge of that State. Could you expect anything else but disorder? You had no right to expect anything else, but your remedy for your disorder is not mine. You propose, as was proposed in 1861, to seek redress of your grievances outside of the law. I stand under the law, and I will do my manful best to retrieve them all, to rectify them all. By revolt, by violence, by murder, the democrats of Louisiana propose to get their wrongs redressed. I propose to do them fair and equal justice, to condemn corruption, to condemn wrong-doing, whether outside of or within the republican party; but if there is a party of thieves, which I deny, I will uphold the party of thieves against the party of murderers.

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